



**CITY OF DULUTH**  
Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197  
Phone: 218/730.5580 Fax: 218/723-3559

## STAFF REPORT

<b>File Number</b>	PL 14-018	<b>Contact</b>	Steven Robertson	
<b>Application Type</b>	Vacation of Street Easement (W 2nd St)	<b>Planning Commission Date</b>	April 8, 2014	
<b>Deadline for Action</b>	<b>Application Date</b>	March 4, 2014	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	March 19, 2014	<b>120 Days</b>	N/A
<b>Location of Subject</b>	3800 West 2nd Street			
<b>Applicant</b>	Arrowhead Land and Leasing, LLC	<b>Contact</b>	Miner's Inc	
<b>Agent</b>	John Geissler, DSGW	<b>Contact</b>	jgeissler@dsgw.com	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	March 29, 2014	<b>Sign Notice Date</b>	March 25, 2014	
<b>Neighbor Letter Date</b>	March 26, 2014	<b>Number of Letters Sent</b>	50	

### Proposal

Applicant is proposing a partial vacation of a street easement for an improved street. The portion of the improved street to be vacated is approximately 20 feet wide and 320 feet long. This section of right of way for West 2nd Avenue is 80 feet; the partial vacation will reduce it to 60 feet.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
<b>Subject</b>	MU-B	Industrial	General Mixed Use
<b>North</b>	R-1	Residential	Neighborhood Commercial
<b>South</b>	I-G	Industrial	General Mixed Use, Light Industrial
<b>East</b>	P-1	Open Space	Preservation, General Mixed use
<b>West</b>	MU-N	Residential, Industrial	Neighborhood Mixed Use

### Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements require a Planning commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

Code requirements are found in UDC Section 50-37.6. The Planning Commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

- 1) Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

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**Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):**

Governing Principle #1: Reuse previously developed lands.

Governing Principle #7: Create and maintain connectivity.

General Mixed Use: The broadest mix of uses, including light industrial, office, commercial, and residential use, with performance standards to ensure compatibility. Includes areas that are in transition from industrial uses and large redevelopments that require master plans and phased development. General or heavy industrial can be included when a large site is master planned to allow appropriate separation of uses.

**Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):**

- 1) Applicant is proposing a partial vacation of a street easement for an improved street. The portion of the improved street to be vacated is approximately 20 feet wide and 320 feet long. This section of right of way for West 2nd Avenue is 80 feet; the partial vacation will reduce it to 60 feet.
- 2) The portion of the right of way requesting to be vacated is currently improved, but not to city standards or by the city. It was paved by the applicant to act as part of their parking lot and traffic circulation for trucks.
- 3) The applicant owns the land surrounding the proposed vacation area. If the vacation request is granted by the City, the applicant intends to construct a small landscape island over the former right of way to act as a partial screen between the warehouse and nearby residential properties.
- 4) To the best of City staff's knowledge, there are no current private utilities in the public right of way. There are city utilities that may be affected; the applicant will leave an utility easement.
- 5) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way.
- 6) Staff believe this right of way is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city (as long as an easement is maintained); the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- 7) No comments from the public. City engineering asked that the easement may be maintained.
- 8) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process.

**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the above findings, Staff recommends that Planning Commission recommend approval of the vacation, with the condition that a 20 foot utility easement be maintained.

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**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**





City Planning  
PL 14-017 and 18, Vacation  
3800 West 2nd Street



## Legend

### Zoning Boundaries

Zoning Boundaries

Future Land Use

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



**Water Distribution System**

- 30" - 60" Water Pipe
- 16" - 24" Water Pipe
- 4" - 6" Water Pipe

**Sanitary Sewer Collection System**

- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

**Gas Distribution Main**

- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes

**Storm Sewer Collection System**

- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Discharge Points


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**Legend**

 Vacated ROW

**Easement Type**

 Utility Easement

 Other Easement

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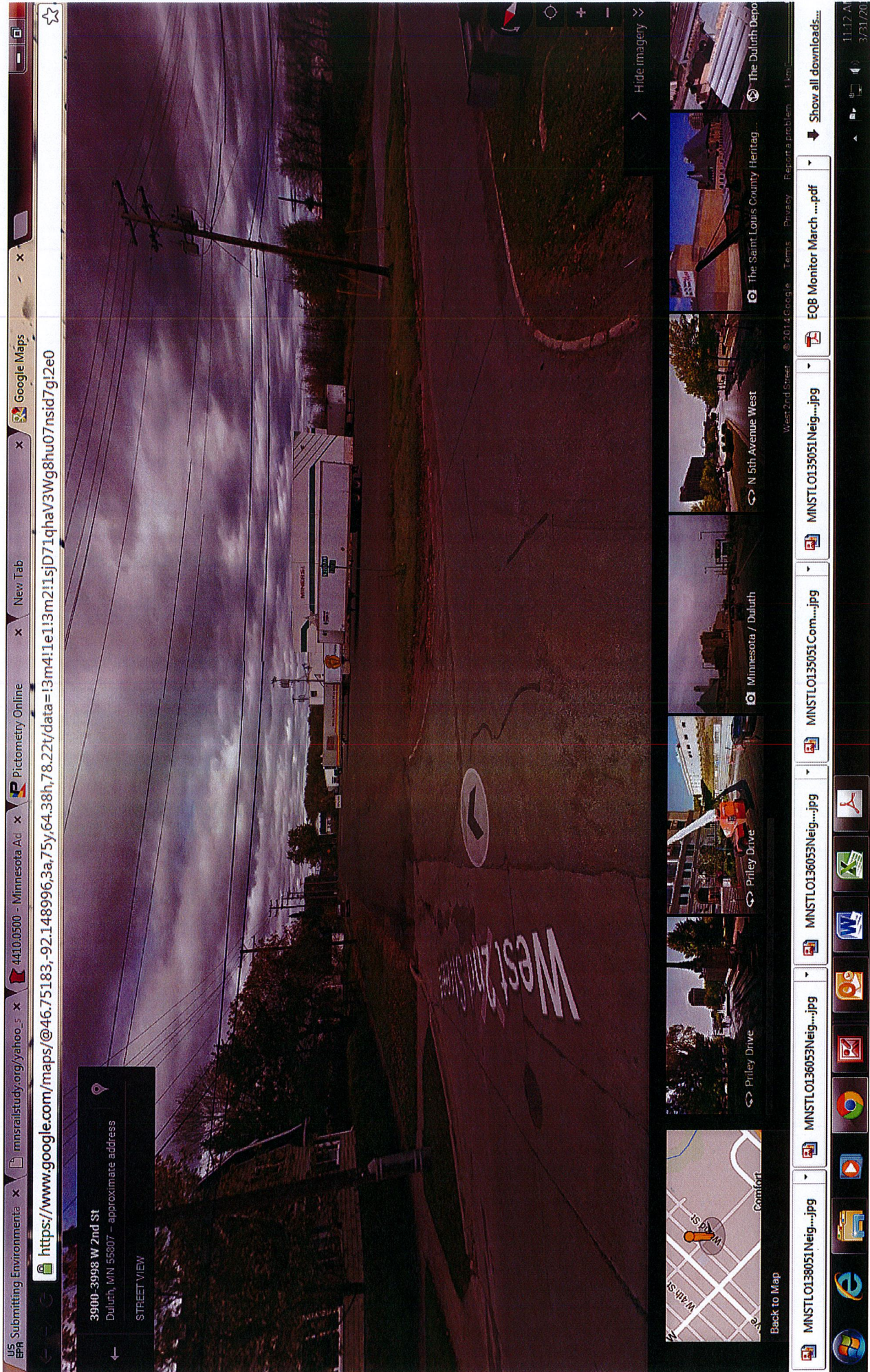


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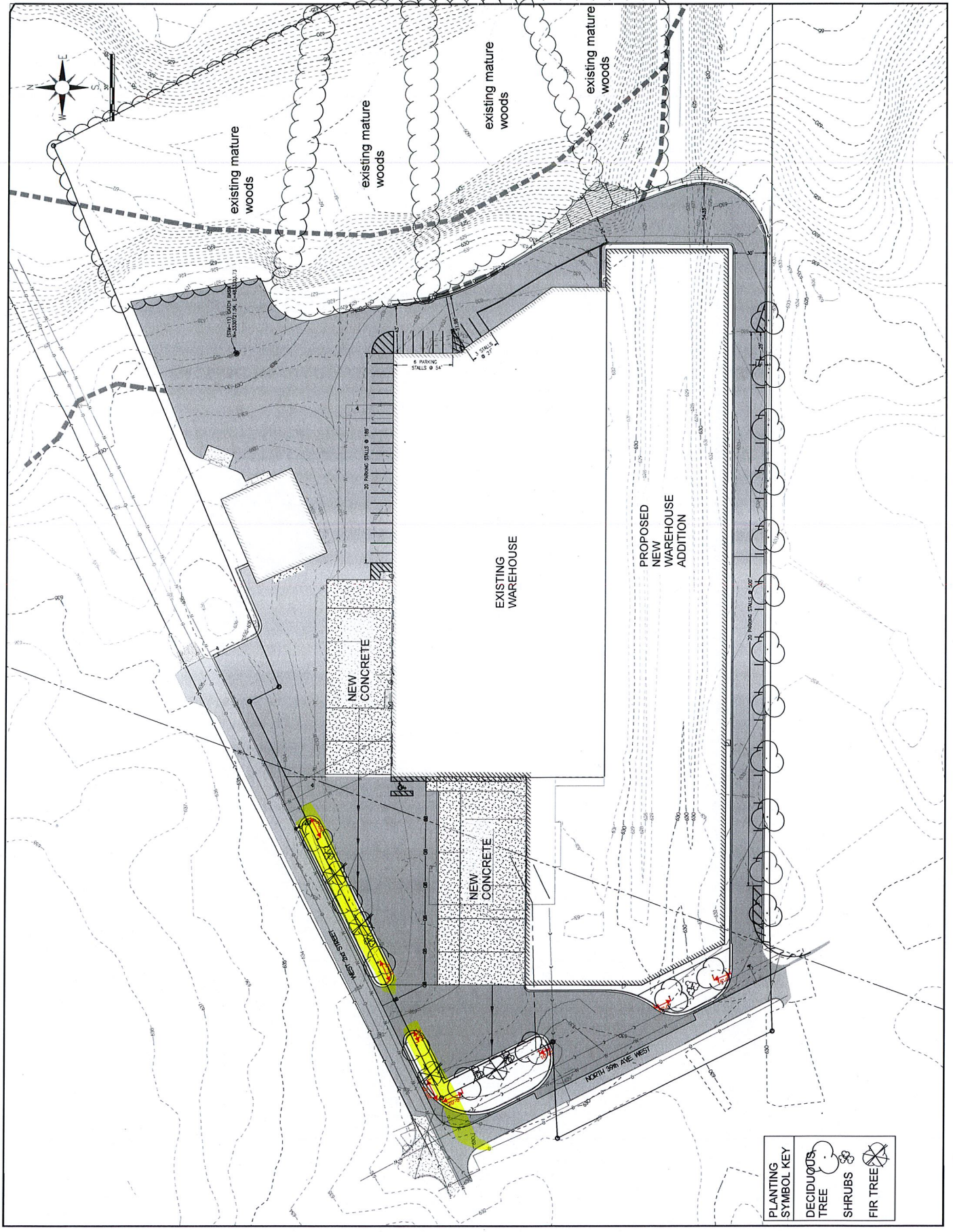






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# Petition to Vacate Street, Alley, or Utility Easement

Land Owner: Arrowhead Land & Leasing, LLC  
Name: Tenant: Miner's, Inc. Contact: Matt Miner

Description of street, alley, or easement to vacate: 20' southern strip of West Second Street at Lots 1 - 6, Block 8 of Hazelwood Addition. See supporting documentation.

My request for this vacation is to (indicate purpose of vacation):  
Change the right-of-way to 60' to be consistent with the balance of the street.

The City of Duluth will not need this street, alley, or easement in the future because:  
This 20' is not needed for the balance of the street, therefore not needed at the requested area.

**PLEASE TAKE NOTICE:** Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council to vacate the street, alley, or easement described in the attached legal description.

This petition is made upon the following facts and reasons (Identify the factual basis and reasons supporting the petition) <sup>1</sup>:

Miner's, Inc. is proposing an addition to their existing warehouse. The 20' of requested right-of-way vacation will be better utilized as a landscape buffer between the property and the street.

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signatures of these persons is attached hereto and made a part hereof. <sup>2</sup>

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.

Signature(s): Matt Miner

Date: 3/4/14

**Notice: This is public data.**

<sup>1</sup> In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

<sup>2</sup> If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.

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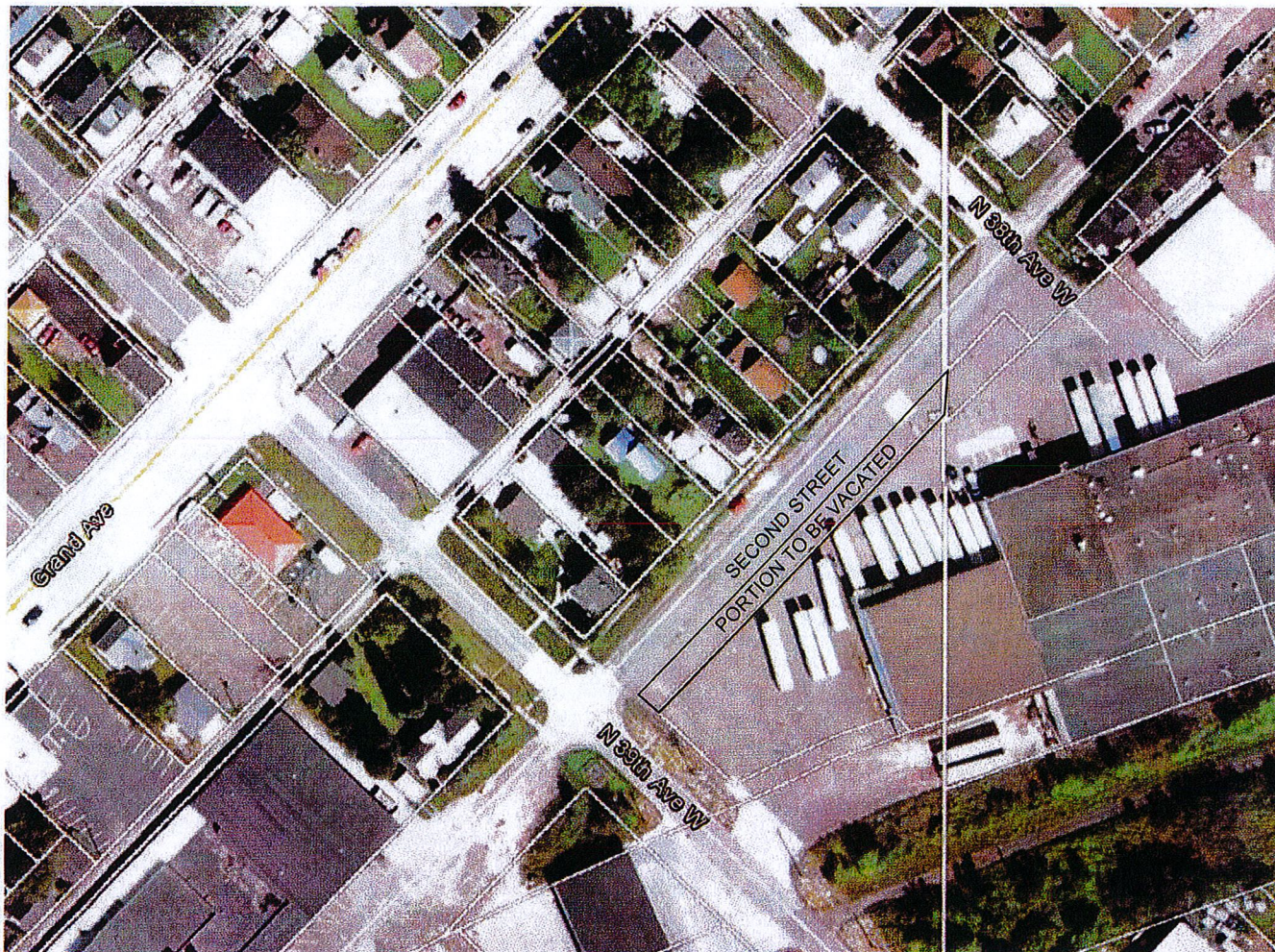
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# VACATION SKETCH FOR: MINERS, INC.



VICINITY MAP



NO SCALE

## NOTES

THIS IS NOT A BOUNDARY SURVEY.

BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE  
MERCATOR COORDINATE SYSTEM OF 1996.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE  
COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR  
UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS  
PROPERTY HAS NOT BEEN COMPLETED BY ALTA SURVEY COMPANY, INC.

DATE: 3-3-14  
SCALE: 1 IN = 100 FEET  
PROJECT NO: 14-023

SHEET 1 OF 2 SHEETS

**ALTA**  
SURVEY COMPANY, INC.  
Residential/Commercial Land Surveying-Land  
Development-Legal Descriptions  
P.O. BOX 161138 Duluth, MN 55806  
Phone: 218-727-5211 Fax: 218-727-3798

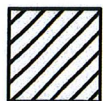
K-11



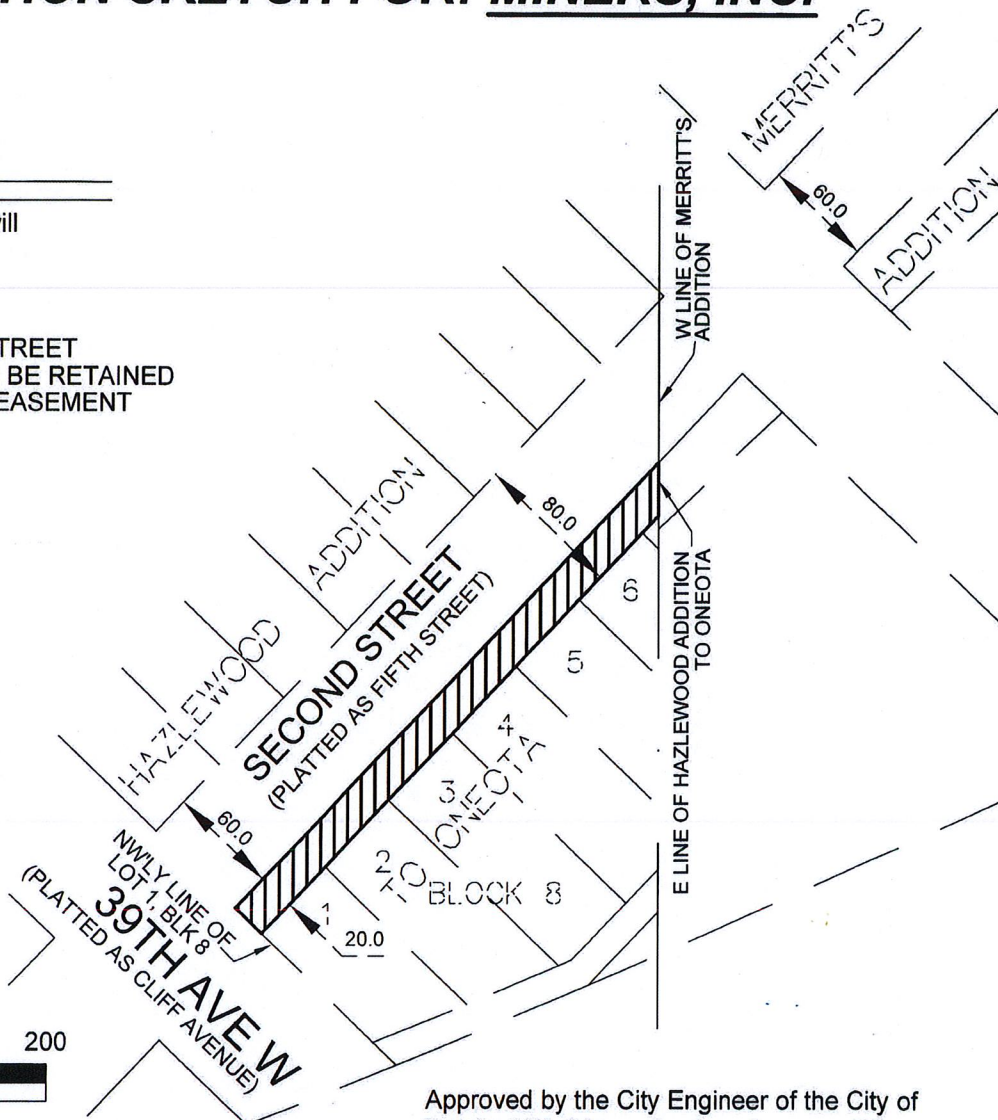
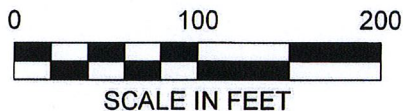
# VACATION SKETCH FOR: MINERS, INC.

## LEGEND

These standard symbols will be found in the drawing.



PROPOSED STREET VACATION-TO BE RETAINED AS A UTILITY EASEMENT



Approved by the City Engineer of the City of Duluth, MN. this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

By \_\_\_\_\_

### Legal Description of Vacation of a Portion of Second Street

A 20 foot strip of Second Street (Platted as Fifth Street) lying adjacent to and northwesterly of Block 8 of HAZLEWOOD ADDITION TO ONEOTA, according to the recorded plat thereof, filed in the St. Louis County Recorder's Office in Duluth, Minnesota.

Said vacated strip is to be retained for utility easement purposes.

Said parcel contains 6,463 square feet or 0.15 acres, more or less.

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Date 3-3-14

*David R. Evanson*

David R. Evanson MN License No. 49505

DATE: 3-3-14  
SCALE: 1 IN = 100 FEET  
PROJECT NO: 14-023

SHEET 2 OF 2 SHEETS

**ALTA**  
SURVEY COMPANY, INC.  
Residential/Commercial Land Surveying-Land  
Development-Legal Descriptions  
P.O. BOX 161138 Duluth, MN 55806  
Phone: 218-727-5211 Fax: 218-727-3798

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